

Chapter 75.58 RCW
AQUACULTURE DISEASE CONTROL

RCW 75.58.010 Disease inspection and control for aquatic farmers - Development of program - Elements - Rules - Violations. (1) The director of agriculture and the director of Fish and Wildlife shall jointly develop, in consultation with the *aquaculture advisory council, a program of disease inspection and control for aquatic farmers as defined in RCW 15.85.020. The program shall be administered by the department of Fish and Wildlife under rules established under this section. The purpose of the program is to protect the aquaculture industry and wildstock fisheries from a loss of productivity due to aquatic disease or maladies. As used in this section “diseases” means, in addition to its ordinary meaning, infestations of parasites or pests. The disease program may include, but is not limited to, the following elements:

- (a) Disease diagnosis;
- (b) Import and transfer requirements;
- (c.) Provisions for certification of stocks;
- (d) Classification of diseases by severity;
- (e) Provision for treatment of selected high-risk diseases;
- (f) Provision for containment and eradication of high-risk diseases;
- (g) Provision for destruction of diseased cultured aquatic products;
- (h) Provision for quarantine of diseased cultured aquatic products;
- (I) Provision for coordination with state and federal agencies;
- (j) Provision for development of preventative or control measures;
- (k) Provision for cooperative consultation service to aquatic farmers; and
- (l) Provision for disease history records.

(2) The director of Fish and Wildlife shall adopt rules implementing this section. However, such rules shall have the prior approval of the director of agriculture and shall provide therein that the director of agriculture has provided such approval. The director of agriculture or the director’s designee shall attend the rule-making hearings conducted under chapter 34.04 RCW and shall assist in conducting those hearings. The authorities granted the department of fish and wildlife by these rules and by RWC 75.080(1)(g), 75.24.080, 75.24.110, 75.28.125, 75.58.020, 75.58.030, and 75.58.404 constitute the only authorities of the department of fish and wildlife to regulate private sector cultured aquatic products and aquatic farmers as defined in RCW 15.85.020. Except as provided in subsection (3) of this section, no action may be taken against any person to enforce these rules unless the department has first provided the person an opportunity for a hearing. In such case, if the hearing is requested, no enforcement action may be taken before the conclusion of that hearing.

(3) The rules under this section shall specify the emergency enforcement actions that may be taken by the department of Fish and Wildlife, and the circumstances under which they may be taken, without first providing the affected party with an opportunity for a hearing. Neither the provisions of this subsection nor the provisions of subsection (2) of this section shall preclude the department of fiseries from requesting the initiation of criminal proceedings for violation of the disease inspection and control rules.

(4) It is unlawful for any person to violate the rules adopted under subsection (2) or (3) of this section or to violate RCW 75.58.040.

(5) In administering the program established under this section, the department of Fish and Wildlife shall use the services of a pathologist licensed to practice veterinary medicine.

(6) The director in administering the program shall not place constraints on or take enforcement actions in respect to the aquaculture industry that are more rigorous than those placed on the department of Fish and Wildlife, or other fish-rearing entities. [1985 c 457 §8.]

***Reviser's note:** The section creating the aquaculture advisory council, 1985 c 457 § 6, was vetoed by the governor.

RCW 75.58.020 Disease inspection and control program - User fees - Aquaculture disease control account. The directors of agriculture and Fish and Wildlife shall jointly adopt by rule, in the manner prescribed in RCW 75.58.010(2), a schedule of user fees for the disease inspection and control program established under RCW 75.58.010. The fees shall be established such that the program shall be entirely funded by revenues derived from the user fees by the beginning of 1987- 89 biennium.

There is established in the state treasury an account known as the aquaculture disease control account which is subject to appropriation. Proceeds of fees charged under the account shall be deposited in the account. Moneys from the account shall be used solely for administering the disease inspection and control program established under RCW 75.58.010. [1985 c 457 §9.]

RCW 75.58.030 Consultation required - Agreements for diagnostic field services authorized - Roster of biologists. (1) The director of Fish and Wildlife shall consult regarding the disease inspection and control program established under RCW 75.58.010 with federal agencies, and Indian tribes to assure protection of state, federal, and tribal aquatic resources and to protect private sector cultured aquatic products from disease that could originate from waters or facilities managed by those agencies.

(2) With regard to the program, the director of Fish and Wildlife may enter into contacts or interagency agreements for diagnostic field services with government agencies and institutions of higher education and private industry.

(3) The director of Fish and Wildlife shall provide for the creation and distribution of a roster of biologists having a speciality in diagnosis or treatment of diseases of fish or shellfish. The director shall adopt rules specifying the qualifications which a person must have in order to be placed on the roster. [1985 c 457 § 10.]

RCW 75.58.040 Registration of aquatic farmers. All aquatic farmers as defined in RCW 15.85.020 shall register with the department of Fish and Wildlife. The director shall develop and maintain a registration list of all aquaculture farms. Registered aquaculture farms shall provide

the department production statistical data. The state veterinarian shall be provided with registration and statistical data by the department. [1985 c 457 § 11.]

Chapter 220-76 WAC AQUACULTURE

WAC 220-76-001 Aquaculture. It shall be unlawful for any person, firm, or corporation to cultivate food fish, shellfish, or other aquatic animals for commercial purposes except as follows in chapter 220-76 WAC

[Order 980, § 220-76-001, filed 2/3/72.]

WAC 220-76-010 Aquatic farm registration required. (1) It shall be unlawful to cultivate aquatic products (private sector cultured aquatic products as defined under RCW 15.85.020(3)) without the aquatic farmer having first registered the aquatic farm with the department. Any aquatic farm must be registered with the department prior to the commencement of culture activities. The department shall grant registration to qualified persons within seven days of the receipt of a complete aquatic farm registration form.

(2) Aquatic farm registrations are nontransferable. In the event there is a change of ownership of an aquatic fish farm established under chapter 220-76 WAC the aquatic farm registration issued to the previous owner shall be invalid.

(3) Registrations must be renewed annually, prior to December 31 for the succeeding calendar year. Reporting of aquaculture activity (WAC 220-69-243) during the previous calendar year shall constitute renewal for the following year.

[Statutory Authority: RCW 75.08.080 and 75.58.040. 89-10-033 (Order 89-27), § 220-76-010, filed 4/27/89; 86-19-043 (Order 86-102), § 220-76-010, filed 9/12/86. Statutory Authority: RCW 75.08.080. 84-05-046 (Order 84-11), § 220-76-010, filed 2/21/84; Order 980, § 220-76-010, filed 2/3/72.]

WAC 220-76-015 Aquatic farm-Definition. An aquatic farm is any facility or tract of land used for private, commercial culture of aquatic products. Each geographically separate facility or trace of land used for commercial culture shall constitute a separate farm. In marine waters, facilities, or tracts of land in the same marine aquaculture district which are owned or operated by the same person shall be considered to be a single farm for the purpose of this section.

[Statutory Authority: RCW 75.08.080 and 75.58.040. 86-19-043 (Order 86-102), § 220-76-015, filed 9/12/86; Order 980, § 220-76-015, filed 2/3/72.]

WAC 220-76-020 Aquatic farm registration form - Required information. There is hereby created an aquatic farm registration form to be prepared, printed, and distributed on request by the department of Fish and Wildlife. The following information shall be provided by the aquatic farmer.

- (1) Company name/owner: Name of individual or company owning or leasing the aquatic farm, mailing address and telephone number.
- (2) Contact person: Name and telephone number of the individual immediately responsible for operation of the aquatic farm.
- (3) DSHS shellfish certification no.: Department of social and health services shellfish certification number where required by the department of social and health services.
- (4) Species cultured: Common name of aquatic species cultured.
- (5) Cultured method: Method(s) of cultured used on aquatic farm.
- (6) Legal description, street address, county and aquaculture district for freshwater or onshore aquatic farm and the number of separate tracts of facilities within the district which comprise the aquatic farm.
- (7) Name of bay or inlet, county and aquaculture district for marine aquatic farms.
- (8) Signature: Signature of company official or owner.
- (9) A site drawing of the aquatic farm and a brief narrative describing the facility and its operation. Freshwater farms should identify the source of culture water, where the water is discharged, and the watershed where the facility is located.
- (10) Documentation of ownership or present right of possession of land comprising the aquatic farm is required to be submitted together with the aquatic farm registration form.

[Statutory Authority: RCW 75.08.080 and 75.58.040. 89-10-033 (Order 9-27), § 220-76-020, filed 4/27/89; 86-19-043 (Order 86-102), § 220-76-020, filed 9/12/86; Order 980, § 220-76-020, filed 2/3/72.]

WAC 220-76-030 Aquaculture - Disease - Control. Outbreaks of disease affecting food fish, shellfish, and aquatic animals in fish farm facilities shall be reported immediately to the department. If such outbreaks represent a serious threat to fisheries resources of the state, the director may immediately order such actions as deemed necessary to protect the fisheries resource of the state such as, but not limited to, quarantining, destruction of stock, sterilization of facilities and disposal of mortalities.

[Order 980, § 220-76-030, filed 2/3/72.]

Chapter 220-77 WAC AQUACULTURE DISEASE CONTROL

WAC 220-77-010 Intent. The intent of this chapter is to establish rules to protect the aquaculture industry and wild stock fisheries from a loss of productivity due to aquatic diseases or maladies. These rules will identify the conditions that will be required for transfer and importation

of live aquaculture products and the circumstances when action will be taken to control disease. These rules have been developed jointly by the department and the department of agriculture.

[Statutory Authority: RCW 75.58.010. 87-08-033 (Order 87-20), § 220-77-010, filed 3/27/87.]

WAC 220-77-020 Definitions - Aquaculture disease control. For purposes of this chapter, the following definitions apply:

- (1) “Aquaculture products” are defined as private sector cultured aquatic products propagated, farmed, or cultivated on aquatic farms under the supervision and management of an aquatic farmer, or such products naturally set on lands under the active supervision and management of an aquatic farmer.
- (2) “Disease” is defined as infection, contagious disease, parasite, or pest, occurring on or within the aquaculture product or on or within the water and substrate associated with the aquaculture product, or an occurrence of significant mortality suspended of being of an infectious or contagious nature.
- (3) “Finfish” is defined as live fish, fish eggs, or fish gametes, but not to include aquaria species commonly sold in the pet store trade when raised in indoor containers, indigenous marine baitfish, or mosquito fish.
- (4) “Shellfish” is defined as all members of the phyla mollusca, arthropoda, and echinodermata.
- (5) “Epizootic” is defined as the occurrence of a specific disease which can be detected in fifty percent of the mortality or moribund individual fish in an affected container, and which results in an average daily mortality of at least one-half of one percent of the affected individual fish for five or more days in any thirty-day period.
- (6) “Marine plant” is defined as nonvascular plants belonging to the phyla Chlorophyta, Phaeophyta, or Rhodophyta and vascular plants belonging to the family Zosteraceae when growing in marine or estuarine waters, and includes the seeds, spores, or any life-history phase of the plants. “Marine plants” do not include aquaria plants or phytoplankton.
- (7) “Working day” is defined as any day other than Saturday, Sunday, or a Washington state holiday.
- (8) “Department” is defined as the department of Fish and Wildlife.
- (9) “Quarantine” is defined as isolation of the organism in a department approved facility,
- (10) “Pest” is defined as parasite, parasitoid, predator, or fouling agent.

[Statutory Authority: RCW 75.58.010. 87-08-033 (Order 87-20), § 220-77-020, filed 3/27/87.]

WAC 220-77-030 Finfish aquaculture disease control. (1) It is unlawful for any person to import into or transport within the state of Washington finfish aquaculture products without first having obtained a permit to do so issued by the department. A copy of the permit shall accompany the finfish aquaculture products at all times within the state of Washington, and must be presented upon request to department employees.

(2) The director may impose permit conditions as necessary to ensure the protection of aquaculture products and native finfish from disease when the director concludes that there is a reasonable risk of disease transmission associated with the finfish aquaculture products.

(3) Upon confirmed diagnosis of viral hemorrhagic septicemia, or confirmed diagnosis of whirling disease, infectious hematopoietic necrosis, or infectious pancreatic necrosis in a previously uninfected lot, the department must be notified by the end of the following working day after diagnosis by an accredited pathologist.

(4) The director will issue, upon request, a pamphlet containing policy guidelines for importers and transferors of finfish aquaculture products.

(5) The director will issue or deny a permit within thirty days after a completed application containing all requested information is received by the department.

(6) Violation of these rules or the conditions of the permit may result in the suspension or revocation of the permit.

(7) In the event of denial, suspension, or revocation of an importation or transfer permit, the affected person may appeal the decision to the director. Additional appeals may be made through the Administrative Procedure Act (chapter 34.04 RCW). A suspended or revoked permit will remain suspended or revoked during the appellate process.

[Statutory Authority: RCW 75.58.010. 87-08-033 (Order 87-20), § 220-77-030, filed 3/27/87.]

WAC 220-77-040 Shellfish aquaculture disease control. (1) It is unlawful for any person to import into or transport within the state of Washington shellfish aquaculture products for planting in Washington waters, without first having obtained a permit to do so issued by the department. A copy of the permit shall accompany the shellfish aquaculture products at all times within the state of Washington, and must be presented upon request to department employees. Possession of an oyster transfer permit issued under RCW 74.24.110 will meet the requirements of this subsection.

(2) The director may impose permit conditions as necessary to ensure the protection of aquaculture products and native shellfish from disease when the director concludes that there is a reasonable risk of disease transmission associated with the shellfish aquaculture products.

(3) For established species and established routes of commerce, the department will issue import and transfer permits if the following criteria are met:

(a) A regular pattern of importation with no more than a one-year time lapse between importations.

(b) Documentation of recent mortality and disease history of the shellfish aquaculture product in the area of origin showing a lack of significant mortality.

(c.) Verification that there has been no introduction of diseased stocks into the area of origin.

(d) Documentation that the shellfish aquaculture product proposed for import is from the approved area.

(4) For established species not from established routes of commerce, the department will additionally require the following before deciding whether to issue an import or transfer permit:

(a) Documentation of mortality and disease of the shellfish aquaculture product for the past ten years from the area of origin, together with similar information for closely related species, if deemed necessary.

(b) A history of those diseases in the area of origin that may affect aquaculture products or native fauna and flora.

(c.) When applicable, documentation of an agreement with the appropriate governmental agency with management responsibility in the area of origin.

(5) For nonestablished species, the department will additionally consider the following criteria, which will require the importer to provide a detailed life history and comply with the requirements of SEPA:

(a) The capability of the receiving facility to hold the shellfish aquaculture product in quarantine.

(b) The ability of the shellfish aquaculture product to naturally reproduce or interbreed with endemic species in state waters.

(c.) The ability of the shellfish aquaculture product to compete with or prey upon endemic species.

(6) For purposes of verification of the disease-free status of shellfish aquaculture products in subsection (3), (4), and (5) of this section, the department may require sufficient samples for histological evaluation either prior to or after subjecting the shellfish aquaculture products to stress tests to detect latent disease conditions. In the event of failure to obtain permit approval, consideration will be given to introduction after hatchery production of a second generation stock.

(7) Violation of these rules or the conditions of the permit may result in the suspension or revocation of the permit.

(8) In the event of denial, suspension, or revocation of an importation or transfer permit, the affected person may appeal the decision to the director. Additional appeals may be made through the Administrative Procedure Act (chapter 34.04 RCW). A suspended or revoked permit will remain suspended or revoked during the appellate process.

[Statutory Authority: RCW 75.58.010. 87-08-33 (Order 87-20), § 220-77-040, filed 3/27/87.]

WAC 220-77-050 Amphibian aquaculture disease control. (1) It is unlawful to import into the state of Washington amphibian aquaculture products without having first obtained a permit to do so issued by the director.

(2) It is unlawful to possess African clawed frogs for aquaculture.

[Statutory Authority: RCW 75.58.010. 87-08-33 (Order 87-20), § 220-77-050, filed 3/27/87.]

WAC 220-77-060 Marine plant aquaculture disease control. (1) It is unlawful for any person to import into the state of Washington marine plant aquaculture products without having first obtained a permit to do so issued by the department. A copy of the permit shall accompany the imported marine plant aquaculture products at all times until the initial point of entry into the marine environment, and must be presented upon request to department employees.

(2) The director may impose permit conditions as necessary to ensure the protection of aquaculture products and native plants from disease or pests when the director concludes there is a reasonable risk of disease or pest transmission associated with marine plant aquaculture products.

(3) For *Porphyra yezoensis* and *P. tenera*, the director will issue import and transfer permits if the plants are in the form of:

(a) Unialgal conchocelis culture of free living material;

(b) Conchocelis-phase culture shells after the shells and conchocelis have been washed and soaked in fresh water for at least twenty-four hours; or

(c.) Blade phase on netting after two weeks at a temperature of minus twenty degrees centigrade or lower.

(4) For import of other species, the department will consider at least the following criteria, which may require the importer to provide a detailed life history and comply with the requirements of SEPA:

(a) The ability of the marine plant aquaculture product to naturally reproduce or interbreed with existing species in state waters.

(b) The ability of the marine plant aquaculture product to compete with existing species,

(5) Importation of marine plant aquaculture products for scientific study in a laboratory or under other controlled conditions is allowed without having obtained a permit when measures are taken to prevent release of the products or release of their gametes, spores, or tissue fragments into state waters. The director may inspect facilities to ensure appropriate control measures.

(6) For purposes of verification of the disease-free status of the marine plant aquaculture product in subsection (3), (4), and (5) of this section, the department may require sufficient sample for evaluation. In event of failure to obtain permit approval, consideration will be given to reproduction after laboratory production of a second generation.

(7) It is unlawful to transfer marine plant aquaculture products between any of the following geographic areas without having first obtained a transfer permit: Columbia River; Pacific Ocean waters; Willapa Harbor; Grays Harbor; and Puget Sound. No transfer permit is necessary for transfer within any geographic regions described above. When required, a copy of the transfer permit shall accompany the marine plant aquaculture products at all times until the products are reintroduced into state waters, and the transfer permit must be presented upon request to department employees.

(8) Violation of these rules, or the condition of any permit may result in suspension or revocation of the permit.

(9) In the event of denial, suspension, or revocation of importation or transfer permit, the affected person may appeal the decision to the director. Additional appeals may be made through the Administrative Procedure Act (chapter 34.04 RWC). A suspended or revoked permit will remain suspended or revoked during the appellate process.

[Statutory Authority: RCW 75.58.010. 87-08-033 (Order 87-20), § 220-77-060, filed 3-27-87.]

WAC 220-77-070 Aquaculture disease control - emergency provisions. (1) The director may take the following emergency enforcement actions when evidence indicates these action are necessary to protect aquaculture products and native stocks from disease or sever mortality from an unexplained source:

(a) Deny issuance of an import or transfer permit.

(b) Quarantine the aquaculture products.

(c.) Confiscate or order the destruction of the aquaculture products.

(d) Require removal of the aquaculture product from state waters.

(2) Confiscation or destruction will be ordered without a hearing if confirmed diagnosis by an accredited pathologist is made that finfish aquaculture products are infected with the causative agent of viral hemorrhagic septicemia (Egtved virus).

(3) For finfish, shellfish, amphibians, and marine plant aquaculture products:

(a) Isolation may be ordered without a hearing when aquaculture products are transferred without appropriate inspections or permits or transferred in violation of the conditions of the permit.

(b) Isolation may be ordered without a hearing when evidence demonstrates that aquaculture products, previously imported, may introduce a disease not known to occur in Washington.

(4) For finfish aquaculture products, an epizootic of whirling disease, infectious hematopoietic necrosis or infectious pancreatic necrosis may result in quarantine, confiscation, or destruction, subject to the aquatic farmer's right to an emergency departmental hearing, if confiscation or destruction are ordered.

(5) For shellfish aquaculture products, an outbreak of serious mortality in which contagious disease is suspected may result in quarantine or require removal of the suspected diseased shellfish aquaculture products from state waters, subject to the aquatic farmer's right to an emergency department hearing, if removal from state waters is ordered.

(6) When there is evidence that continued presence of aquaculture products in state waters may cause disease that would harm other aquaculture products or native fauna or flora, the director may order quarantine, confiscation, destruction, or removal from state waters. Except as provided in subsections (2) and (3) of this section, the aquatic farmer has a right to a departmental hearing. In the event the director has ordered emergency action of confiscation, destruction, or removal from state waters, the director shall give notice to the affected aquatic farmer. At the time of notice of emergency action, the affected aquatic farmer may request an emergency departmental hearing. If requested the hearing will take place no later than the third working day after notice is received by the aquatic farmer. The hearing will be presided over by a hearing officer appointed by the director, who will consider the severity of the disease outbreak, remedies, and alternate courses of action. The hearing officer shall present a recommendation to the director. The director will then review the emergency action and, if appropriate, order confiscation, destruction, or removal from state waters. If so ordered, the emergency action will take place no sooner than forty-eight hours after the order. If no request for an emergency departmental hearing is received, the emergency action of confiscation, destruction, or removal from state waters, may take place immediately after the third working day after the notice is received by the aquatic farmer.

(7) If the department refuses to issue an import or transfer permit, or orders quarantine or isolation of aquaculture products, the aquatic farmer has a right to a hearing under the Administrative Procedure Act (chapter 34.04 RCW).

[Statutory Authority: RCW 75.58.010. 87-08-033 (Order 87-20), § 220-77-070, filed 3/27/87.]

WAC 220-77-080 Aquaculture fee schedule. (1) The following is a list of the charges to be assessed for tissue samples submitted to the department for pathogen examination. All samples for stock certification must be collected by department personnel or individuals approved by the department.

Virology

Kidney/spleen or other tissue	\$15/sample
Ovarian fluid	12/sample

Bacteriology

Bacterial Kidney Disease - FAT	\$ 7/slide
Culture and characterization	10/sample
Gram stain	1/sample

Parasitology

<u>C. Shasta</u>	\$ 1/fish
<u>M. Cerebralis</u>	1.50/fish (0-30 grams)
	2.00/fish (30-100 grams)
	10.00/fish (>100 grams)

Collection Fees

Collecting samples (includes travel time)	\$27/hour
Mileage	at published OFM rates
Per diem (if applicable)	at published OFM rates

Diagnostic Service

Diagnostic service (includes travel time)	\$27/hour
Mileage	at published OFM rates
Per diem	at published OFM rates

(2) The funds received from the aquatic farmers who use disease inspection and other services provided by department personnel shall be placed into a designated account. Funds from the account shall be used solely for administering the disease inspection and control program.

[Statutory Authority: RCW 75.58.010. 89-06-031 (Order 89-06), § 220-77-080, filed 2/24/89.]